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SUBJECT: GOC EXPLAINS JUSTICE AND PEACE TO DIPLOMATIC CORPS

Summary

¶1. (U) On July 15, Foreign Minister Carolina Barco, Peace Commissioner Luis Carlos Restrepo, and Vice Justice Minister Mario Iguaran presented the Law for Justice and Peace to the diplomatic corps. Iguaran reviewed the law in detail and tried to dispel accusations that it did not encourage full confession, would be shot down on constitutional grounds, and created impunity. He said the President would sign it by the first week of August. Restrepo and Iguaran fielded questions on a variety of issues, including an explanation of how all illicit assets would be seized and why the law did not acknowledge an armed conflict. They assured the Ambassador that each ex-terrorist's free declaration would be cross checked with all others to compile complete criminal histories. The government was preparing to create the institutions called for by the law, such as the special Fiscalia unit, name a high-ranking demobilization "czar," and demobilize the rest of the AUC. Restrepo emphasized that resource shortages and security in the former AUC zones were pressing concerns. End summary.

Iguaran Explains Law

¶2. (U) Vice Justice Minister Iguaran (who was named Prosecutor General on July 19) explained the Justice and Peace Law to the diplomatic corps on July 15 to dispel confusion and accusations from critics about impunity, lack of confession, and constitutional issues. His main points included:

-- The President will sign the bill into law by the first week of August.

-- "Ordinary" legislation: the GOC did not violate constitutional norms by passing the law as ordinary, rather than statutory, legislation. If the law had created a new court to process ex-terrorists it would have been statutory, but, instead, the already existing Superior District Courts would be used. (Critics, such as Human Rights Watch, have claimed the Constitutional Court will reject the law because it deals with fundamental rights and therefore cannot be ordinary legislation. Statutory legislation would have required approval by absolute majorities in all four debates within one legislative session.)

-- Confession: according to the Colombian constitution, self-incrimination is prohibited. Confession therefore cannot be forced. Instead, according to Iguaran, the GOC found the next best option: no benefits are given for crimes intentionally concealed; each accidentally omitted crime results in a 20 percent increase in the alternative sentence; and if an ex-terrorist refuses to give an open statement, he is denied all benefits.

-- Impunity: the law does not let criminals go free. Instead, it offers a reduced sentence and conditionally suspends the original sentence only if the ex-terrorist fulfills all obligations under the law.

-- Jail terms: Iguaran insisted the claim that ex-terrorists would only spend one to two years in jail was false. The law clearly prohibited all sentence reductions except that up to 18 months spent in a concentration zone would count against the sentence.

-- Reparations: victims are guaranteed reparations. According to Iguaran, the final text on reparations was taken entirely from opposition draft laws.

-- Eligibility: the law explicitly states that only crimes committed during membership in, and in service of, the illegal armed group are eligible. Any crimes committed before membership or for personal gain are prohibited. These requirements were added to prevent narcotraffickers from clearing their records.

-- International agreements: the law states that all international treaties or agreements remain active and intact.

Logistics a Major Concern

13. (U) In response to the Argentine Ambassador's question how the remaining 60 percent of paramilitary groups would demobilize, Restrepo took the opportunity to list resource, personnel, and security shortages the GOC faces.

14. (U) Restrepo said he was confident, for the first time, that all paramilitary groups in the country would demobilize.

The AUC's Central Bolivar Bloc, the single largest bloc with over 5,000 members, the Middle Magdalena Bloc, and Jorge 40's forces had all pledged to demobilize. The Elmer Cardenas Bloc, which had refused to join peace talks, had also agreed to demobilize.

15. (U) Restrepo warned, however, that the logistics of demobilizing so many paramilitaries before the end of the year presented a major challenge. For example, 400 public officials were needed to demobilize the 594 members of the Montes de Maria Bloc. Each demobilization takes seven to 21 days. Given personnel and resource restraints, the government can only average two demobilizations each month. Providing security in the former AUC territories was an added challenge. For example, the Army had to displace two counterguerrilla battalions to secure the Catatumbo Bloc's former area of control. Restrepo said the military could not afford to continually displace troops to secure the areas. Instead, he estimated the government needed 5,000 to 10,000 new police, including some with special counternarcotics training to prevent other illegal armed groups or cartels from moving in. To complete the remaining demobilizations, Restrepo believed the government needed 300 to 400 billion pesos (between USD 130 to 174 million).

Question and Answers

16. (U) After Iguaran's lengthy presentation, Restrepo opened the floor to questions:

Q: The Ambassador asked if the authorities would cross check the open declarations to compile all criminal information available.

A: Iguaran assured him the tribunals all would have officials responsible for cross checking all information.

Q: When will law be implemented?

A: Restrepo reported that several tasks remained:

-- Institutions: Once the President signed it into the law, the government would need time to create the institutions called for by the law, such as the special Prosecutor General's Office (Fiscalia) unit.

-- Intelligence: The Fiscalia would need sufficient time to research the ex-terrorist so the appropriate questions could be asked during the free declaration.

-- Demobilization: One of the law's conditions is that the ex-terrorist must have demobilized. Sixty percent of the AUC has yet to demobilize. Restrepo assured the audience that by December 31, 2005, all of the AUC would be demobilized. If not, active members remaining would not be eligible for any benefits under the law.

-- Demobilization Czar: The government needed to name a high level official to direct the law's implementation.

Q: How will authorities determine when an ex-terrorist joined the illegal armed group?

A: Restrepo said there were two ways: (1) the ex-terrorist is required to report the date he joined in his open statement, and (2) judges have access to all intelligence and criminal information on the ex-terrorist. Iguaran added that illegal armed groups organized for the purpose of drug trafficking or individuals principally devoted to drug trafficking were not eligible for benefits.

Q: Are illicit assets seized only if they were acquired when the ex-terrorist was working for the illegal armed group?

A: No. All illicit assets will be seized regardless of when they were acquired.

Q: Are 20 prosecutors sufficient for the special Fiscalia unit?

A: Iguaran noted that 20 is the number of prosecutors officially assigned to the unit, but that the Fiscalia was free to use as many prosecutors necessary to do the job.

Q: Why does the law make paramilitarism an act of sedition?

A: Restrepo emphasized that the article was added primarily for practical reasons. Otherwise, it was not possible to pardon paramilitaries guilty of only having belonged to an illegal armed group. No major crimes could be considered connected to sedition. He also said that, in the face of complaints of government cooperation with the paramilitaries, they wanted to make it clear that even membership was a crime.

Q: Why does the law not recognize an armed conflict?

A: Restrepo said it was for political reasons, but would not prevent the government from respecting all international agreements and international humanitarian law.

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